

Licensing Sub-Committee

Minutes of a Meeting of the Licensing Sub-Committee held in Committee Room 2, Civic Centre, Tannery Lane, Ashford on the **19th June 2019**.

Present:

Cllr. Shorter (Chairman);

Cllrs. Krause, Wright.

Also Present:

Licensing Officer, Licensing Officer, Principal Litigator, Legal Work Placement, Member Services Officer.

Mr J Simpson – Home Office Representative

PC A Pringle – Police Representative

Mr K Ahmadzai – Applicant.

Ms J Hammond – Supporting the Applicant.

50 Election of Chairman

Resolved:

That Councillor Shorter be elected as Chairman for this Meeting of the Licensing Sub-Committee.

51 Minutes

Resolved:

That the Minutes of the Meeting of this Sub-Committee held on the 15th April 2019 be approved and confirmed as a correct record.

52 The Codfather, 15 High Street, Ashford, Kent TN24 8TH – Application for a Premises Licence

The Chairman opened the meeting and welcomed all those present. He explained the procedure to be followed at the meeting.

The Licensing Officer summarised the application as set out in the report. The application was for a premises license for the sale of Late Night Refreshment. She drew attention to the previous licence that had been revoked by the Licensing Sub-Committee on 24th January 2019. The application sought Late Night Refreshment

with the premises not being open to the public, and the license to be restricted to a delivery only service. Representations had been received from both Kent Police and the Home Office. Following confirmation that the application was for delivery only, Kent Police had withdrawn their representation. The Home Office had raised concerns regarding the employment of illegal workers at the premises. She highlighted the steps open to the Committee in making their decision, in that they could grant the application as is, grant the application with additional conditions or refuse the application.

Mr Simpson from the Home Office drew attention to his representation and confirmed that a civil penalty fine for £30,000 was imposed on Codfather Kent Ltd, 15 High Street, Ashford on 20th December 2018. This was in respect of an Immigration Enforcement visit, on 15th June 2018, when two male nationals from Afghanistan were found working illegally at the premise. There had been no objection or appeal from the employer so after 28 days appeal rights were exhausted. The penalty was due and still outstanding. He confirmed that the Applicant was the responsible person for employment at that time.

Mr Ahmadzai advised that the Company had been fined by the Home Office, he felt that this did not relate to him personally.

Mr Simpson advised that Mr Ahmadzai had attended their offices on 21st June 2018 and admitted responsibility for the employment of staff therefore his comment was of interest, however not a matter for the Sub-Committee.

The Principal Litigator advised the Sub-Committee that the fine had been issued by the Home Office, it had yet to be paid, it was not appealed and therefore was valid. It was not, however, a matter for the Sub-Committee to consider.

Mr Ahmadzai advised that he had taken over the Company as a Director and since the revocation of the Late Night Refreshment licence the profitability of the company had deteriorated. He advised that he was under the impression that he had applied for Late Night Refreshment, however it appeared that his Agent who had completed the forms on his behalf had not done so, just solely for Late Night Refreshment for delivery only.

The Principal Litigator drew attention to the application that had been submitted and the hours of operation requested within. Further, she advised that Kent Police had withdrawn their representation based on the application not permitting the public onto the premises after 11pm. The Sub-Committee were only able to determine the application before them.

Mr Ahmadzai advised that his legal representative had not arrived for the Hearing so he did not have the representation he would have liked. Ms Hammond, his future Mother in Law, would act as support to him throughout the hearing and assist with his understanding of the questions put forward. He felt that when submitting the application there had been resistance from the Licensing Team, additionally when displaying the notice there had been issues too. He questioned why he had not been notified and why the application had not been granted.

The Chairman advised that the Licensing Team had followed the correct processes. Communications had been made with both the Applicant and his Agent throughout the process. The Sub-Committee noted that what Mr Ahmadzai would like permitted and what had been applied for were different.

In response to questions from the Sub-Committee Mr Ahmadzai advised that he would not open the premises to the public after 11pm. He confirmed that he would do what was set out in the license and only that which he was permitted to do. In respect of the licensing objectives, since the incident in January all staff had been trained in aggressive behaviour, drunk and disorderly persons. He had a certificate to prove this, which had been seen by the Council. Mr Ahmadzai could not confirm who had provided this training nor the specific course undertaken, but would be able to provide the certificate should the Sub-Committee request it. In respect of the CCTV cameras, Mr Ahmadzai confirmed that he and another member of staff were able to operate the system.

Mr Ahmadzai advised that he would not and did not employ illegal workers. He had been advised by the Home Office of the checks to carry out, however did not have a written policy to support this. Mr Ahmadzai advised that he had not employed any new staff since the incident in January but assured the Sub-Committee that any future new staff would be given appropriate training. In response to questions, Mr Ahmadzai advised that he did not keep records of training undertaken by staff.

The Sub-Committee drew attention to the conditions contained with the application and the subsequent conditions contained at pages 49 and 50 in the agenda papers. The Licensing Officer advised that the original conditions submitted were not suitable therefore others had been proposed and had been agreed by the Agent, the confirmation of this was contained within the agenda papers.

In response to questions from the Sub-Committee, Mr Ahmadzai advised that he did not have an incident book nor did he have a procedure note for the operation of the CCTV system. He was of the understanding that these would not be required until the licence was granted. In conclusion, Mr Ahmadzai advised that he would operate within the licence should it be granted.

The Sub-Committee then retired to make their decision.

On return, the Chairman read out the Licensing Sub-Committee's decision and reasons. A copy of the decision notice and reasoning was issued to the Applicant after it had been read.

Resolved:

That the licence not be granted.

The decision notice and formal wording read out by the Chairman is appended to these Minutes. The decision notice was duly issued to the Applicant at the meeting before the meeting was formally closed.

**LICENSING SUB-COMMITTEE
WEDNESDAY 19TH JUNE 2019**

**APPLICATION FOR A PREMISES LICENCE FOR THE COD FATHER
(15 HIGH STREET, ASHFORD, KENT, TN24 8TH)**

LICENSING SUB-COMMITTEE DECISION AND REASONINGS

LICENSING OFFICERS

Alison Simmonds
Julian Postlethwaite

**REASON FOR
MEETING:**

An application was made for a Premises License for The Codfather, 15 High Street. Representations were made by Kent Police and the Home Office.

DELIBERATION:

The Licensing Sub-Committee listened to the introduction given by the Licensing Officer in respect of the application made, for the serving of Late Night Refreshments by delivery only and the options open to the Committee.

The Sub-Committee heard from Home Office representative who advised that a civil penalty fine for £30,000 was imposed on Codfather Kent on 20th December 2018. This was in respect of an Immigration Enforcement visit, on 15th June 2018, when two male nationals from Afghanistan were found working illegally at the premises. There was no objection or appeal from the employer so after 28 days appeal rights were exhausted. The penalty was due and still outstanding. The Applicant was the person responsible at that time for the employing of staff.

The Sub-Committee heard from the Applicant who advised that the application before the Committee was not that that he wished to pursue, however understood that was what was before the Sub-Committee for consideration.

There was significant discussion regarding the fine from the Home Office, the Legal Advisor clarified that the fine was valid, had not been appealed and was not a matter for the consideration of the Sub-Committee.

The Sub-Committee noted that CCTV was in operation in the premises. The Applicant advised that this was kept for 28 days and he and a member of his staff could operate this, however there were no written instructions on the operation of this system.

The Sub-Committee questioned what written procedures were in place to ensure the running of the business. The Applicant confirmed that he did not have any procedures in place, let alone any written procedures. He was questioned whether records had been kept regarding training that

had taken place following the hearing in January. The Applicant confirmed that training had taken place and that he had a certificate to prove this. He could not, however, confirm what training this was nor whom it had been provided by, he did note that he would be able to provide a copy to the Sub-Committee should it be necessary and noted that he had provided this to the Licensing Team previously.

The Sub-Committee questioned what steps were in place to ensure that illegal workers were not employed in the future. The Applicant advised, with assistance, that he had a checklist provided to him by the Home Office. However, he did not have any written policies to support or expand upon the check list.

The Sub-Committee then retired.

The Sub-Committee considered the following relevant licensing objectives; prevention of Crime and Disorder, Public Safety, the Prevention of Public Nuisance and the Prevention of Harm to Children.

During deliberations the Sub-Committee considered the representation from the Home Office and the perceived ongoing risk and in particular the last paragraph in the written representation: *'The Home Office (Immigration Enforcement) have presented this evidence to inform the licensing committee's consideration and to draw to its attention the significant risk that the licensing objective of preventing crime and disorder is being undermined.'*

Furthermore, the demonstrable lack of understanding by the Applicant regarding control procedures and record keeping was of the utmost concern to the Sub-Committee. The absence of written policies to support the operation of the business and in particular the employment, training and operation of the CCTV all of which would support the Licensing Objectives.

The Sub-Committee questioned how the delivery service would work and to that end the Legal Advisor contacted the Applicant to enquire how the food would exit the premises and how orders would be placed for delivery. The Applicant responded that the food would leave the premises via the rear exit and orders would be received via Just Eat or the telephone, with drivers using cars for delivery.

The Sub-Committee noted that the conditions originally put forward as part of the application had been superseded by those contained on pages 49 and 50, a fact that the Applicant did not seem to be aware of when questioned. In respect of the making of the application, it was apparent to the Sub-Committee that numerous errors had been made which had been highlighted by the Licensing Officer and it appeared from the Applicants statements during the meeting that the application had been made by his agent, with the Applicant having little to no input nor understanding of the process or the application put forward.

Further to the aforementioned conditions, it was clear that the CCTV would not cover the area in which the licensable activity would be taking place, namely the rear of the premises.

The Sub-Committee were of the opinion that the evidence put forward by the Applicant, and that given verbally at the meeting, was not sufficient to support the licensing objectives, in particular the objective of preventing crime and disorder. The lack of written policies and procedures did not give the Sub-Committee any confidence that should the application be granted that the Applicant would promote any of the licensing objectives.

DECISION MADE:

The licence not be granted.

Right of Appeal

- There is a right of appeal against this decision. An appeal must be commenced by notice of appeal given by the Appellant or anybody affected by this decision to the Magistrates Court within 21 days of the date of this notice.

Dated: 19th June 2019